

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DATE FILED: 7-23-13

ROBYN FENTY and TOURIHANNA,

Plaintiffs,

-against-

BERDON, LLP, MICHAEL MITNICK, and
PETER GOUNIS,

Defendants.

Case No. 12-cv-5207 (PKC)

ORDER

The parties appeared for a status conference on July 12, 2013, before the Honorable P. Kevin Castel, where the matters addressed by the Court included Ms. Fenty's failure to appear at her continued deposition scheduled for June 19, 2013 in London, England, and Defendants' motion, filed on July 11, 2013, seeking sanctions against Plaintiffs pursuant to Federal Rule of Civil Procedure 37 ("Rule 37").

The parties' respective positions on Ms. Fenty's failure to appear, and the consequences thereof, initially were set forth in Defendants' letters to the Court, dated June 28, 2013 and July 2, 2013, Plaintiffs' letter to the Court, dated July 1, 2013, and Defendants' moving papers filed with the Court on July 11, 2013.

At the conference, the Court focused on the prior stipulations and orders in addressing Defendants' multiple efforts to depose Ms. Fenty. Then, after hearing oral argument, the Court, based upon the consent of all counsel, entered a fee-shifting arrangement whereby Plaintiffs are obligated to pay certain of Defendants' costs attendant to Ms. Fenty's continued deposition.

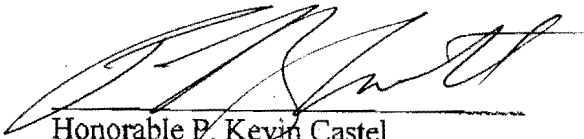
ACCORDINGLY, IT IS HEREBY ORDERED THAT:

1. Plaintiffs shall compensate Defendants for fees incurred as a result of their preparation for the previously scheduled June 19, 2013 deposition in London. Plaintiffs shall pay defense counsel for Berdon, LLP and Michael Mitnick for 11 hours of attorney time at a rate of \$450 per hour for a total of \$4,950, and shall pay defense counsel for Peter Gounis for 4 hours of attorney time at a rate of \$450 per hour for a total of \$1,800.
2. Plaintiffs shall compensate Defendants for lost time while in London for the previously scheduled June 19, 2013 deposition. Plaintiffs shall pay each of the three defense counsel who appeared for Ms. Fenty's deposition for two 10 hour days, at a rate

of \$450 per hour, for a total of \$27,000 (\$18,000 to defense counsel for Berdon, LLP and Michael Mitnick, and \$9,000 to counsel for Peter Gounis).

3. Plaintiffs shall compensate Defendants for fees incurred in preparing their motion for sanctions pursuant to Rule 37. Plaintiffs shall pay counsel for Berdon, LLP and Michael Mitnick \$10,900, and shall pay counsel for Peter Gounis \$2,400.
4. Plaintiffs shall pay all costs set forth in Paragraphs 1, 2 and 3 herein within 15 days after entry of this Order.
5. Ms. Fenty shall appear for her continued deposition, not to exceed 5 record hours of testimony, on Wednesday, August 28, 2013 at the Los Angeles offices of Wilson Elser Moskowitz Edelman & Dicker LLP at 10:00 a.m.
6. Plaintiffs shall pay for all reasonable costs incurred by defense counsel in connection with Ms. Fenty's August 28, 2013 deposition (including, but not limited to, business class airfare, three nights of hotel accommodations, all out-of-pocket costs, such as food, parking, transportation, and \$450 per hour for each attorney for all time spent from the time the lawyer leaves his/her home and arrives in the California hotel, and leaves the California hotel and arrives at his/her home for the attorneys traveling to the deposition from New York and New Jersey). These costs and expenses will be paid by Plaintiffs to Defendants' counsel within 15 days after presentation of a statement of costs incurred by Defendants' counsel.
7. Plaintiffs are hereby warned that failure to comply with this Order may result in dismissal of this case pursuant to Rule 37 or the inherent powers of this Court.
8. Defendants' Rule 37 sanctions motion is resolved in accordance with the foregoing.

July 23, 2013
Dated: ~~July 18~~, 2013
New York, New York


Honorable P. Kevin Castel
United States District Judge